

APPENDIX 1

ANALYSIS OF AMERICAS WATCH SEPTEMBER 1985 REPORT ON
EL SALVADOR ENTITLED "THE CONTINUING TERROR"

The report is based primarily on pro-FMLN sources, and relies heavily on testimony from FMLN supporters from the guerrilla stronghold of Guazapa and from sympathizers and families of guerrillas in church camps in El Salvador and refugee camps in Honduras. It depends for its figures on Tutela Legal, the Catholic Legal Aid Office of the Archbishopric of San Salvador, whose methodology is questionable and whose statistics we have shown to be badly flawed and biased. The Americas Watch report accepts Tutela Legal's methodology without critical analysis. It includes errors of fact. The report is superficial, demonstrating a lack of understanding of the political environment in El Salvador and of the behavior and customs of the Salvadoran people. To make its case, Americas Watch repeatedly dredges up incidents from the past to support the report's contention that terror continues in the present. The report ignores the substantial improvement in the human rights milieu and President Duarte's strong emphasis on its continuing improvement. Americas Watch treads lightly on guerrilla atrocities; the 150-page report devotes only 16 pages to guerrilla human rights abuses, which are today flagrant and conspicuous in comparison with the demonstrably improved comportment of government security forces.

Specific Abuses Charged:

The report charges the Duarte Government with human rights abuses and violations of the "laws of war" in several areas. Americas Watch alleges that the following combat-related abuses occur:

- 1) Violations of the government's own regulations governing aerial bombing;
- 2) Forced relocation of civilians "by abusive means";
- 3) Harassment of relief and medical operations; and
- 4) Use of coercion in establishment of the Civil Defense System.

The report accuses the Salvadoran Government of responsibility in the following non-combat areas:

- 1) Resurgence of death squad activities;
- 2) Use of torture by Armed Forces;
- 3) Failure to punish members of the military for human rights abuses; and

- 4) Lack of respect for independence of the courts, press, labor unions, and universities.

General Comment on the Report:

A. Indiscriminate Bombing: The Americas Watch (AW) charge of indiscriminate bombing is counterfactual. Civilian casualties have rarely occurred since President Duarte ordered new rules of engagement for the use of air power in August 1984, and the total number of civilian casualties since that time is very low. Careful monitoring has shown that the Salvadoran Air Force (ESAF) carefully controls its bombing missions and closely follows the bombing rules established by the President.

B. "Forced Relocation of Civilians" is a charge based on a few isolated instances where civilian guerrilla supporters (masas) were captured during military sweeps. Those "masas" who did not have other resources were transferred to Displaced Persons Camps through the assistance of the International Committee of the Red Cross (ICRC) and Church groups. These civilians, in the Embassy's view, were removed from a life of terror, deprivation, psychological indoctrination intended to sow fear and distrust of the government, and danger due to their living and travelling with the guerrilla combatants. In interviews with guerrilla "masas", Embassy officers found that many "masas" remain with the guerrillas out of fear, a fear fed by the guerrillas who tell them that they will be tortured and killed if captured by the ESAF -- charges which may have had some validity in the past, but no longer do today.

C. Likewise, the report's charge of harassment of relief and medical workers by the military may have had some basis in the past, but communication between these groups and the military has improved and complaints have fallen off accordingly. The cases cited by AW are well known to the Embassy. In our follow-up on these accusations, we found that certain villages were receiving double or triple donations of food and medicine from several relief organizations, as a result of which the guerrillas were taking shipments from the inhabitants after the relief teams departed. As noted by AW, doctors who are members of guerrilla organizations have been arrested, but for holding that membership, not for providing medical services. Active membership in a guerrilla organization is against Salvadoran law. To present a balanced picture, the report should note that the ICRC provides food and medicine to more than 80,000 persons in or near the conflictive areas, among whom are some of the 25,000 "masas" whom Robert McCartney estimates are still living in zones of heavy guerrilla presence and supporting the guerrillas (Robert

McCartney, "Rebels Optimistic Despite Army Attacks", The Washington Post, p. A1, November 7, 1985). This should be ample proof that the government allows relief operations to provide food and medical care to guerrilla "masas".

D. The report's allegations against the Civil Defense as an abuser of the civilian population have some basis. Nevertheless, it would have been more productive to stress the progress being made in this regard and to distinguish between the vestiges of the old Civil Defense, and the new Civil Defense, which started in 1984 with U.S. support and is gradually displacing the old. Unlike the old Civil Defense, members of new corps are unpaid volunteers who are supervised by a Civil Defense Committee, usually chaired by the Mayor and composed of representatives of a broad sampling of the municipalities' political complexion. Undoubtedly, as the report claims, there is substantial peer pressure to join the Civil Defense as the new program has proved quite successful in protecting against guerrilla attacks and wanton acts of guerrilla terrorism in the nearly 80 towns where it has been established. Civil Defense members, old and new, and their families are subject to FMLN intimidation and atrocities, such as those which occurred at Santa Cruz Loma and San Ignacio during 1985. When the Civil Defense is accused of abuses of authority, the government has reacted by arresting those responsible. U.S. trainers are emphasizing respect for the civilian population when formulating Civil Defense training programs. The parish priests who minister to the Armed Forces give human rights lectures to the Civil Defense Forces as well.

E. Non-Combat-Related Abuses: AW's most damning accusation against the Salvadoran Government is that death squad killings are committed by the Armed Forces and paramilitary groups. As the basis for its allegations, AW cites statistics provided by Tutela Legal. Neither AW nor Tutela Legal, however, has been able to provide any persuasive evidence of linkage between political killings and the Armed Forces. In the Embassy's view, Tutela Legal arbitrarily attributes killings by unknown assailants to rightist "paramilitary death squads". Actually, many of these killings appear to be common crimes, without political motivation. Of those with a political motive, the largest percentage are claimed by or appear to be perpetrated by the left. The right publicly claimed only one killing in all of 1984, and has claimed none in all of 1985.

In its charge of use of torture by the Armed Forces, the authors have again based their allegations on testimony taken from guerrillas or guerrilla sympathizers. Interviews with guerrillas in prison should be viewed with caution, as they are well versed

in the manipulation of human rights as a propaganda tool to use against the Duarte Government. It is probable that psychological pressure is applied during interrogation but we do not believe physical torture is a deliberate policy of the Salvadoran Government, nor that it is common. Complaints of torture are significantly fewer than in the past, and the Armed Forces and the police forces in particular are making a significant effort to reduce human rights abuses against the civilian population by instituting safeguards in the treatment of prisoners and allowing access to them by representatives of human rights agencies. The report neglects to mention the positive efforts that have been made by the Armed Forces in the first six months of 1985. The lack of balance in the report and failure to acknowledge the improvements which have been made demonstrates, in our view, the report's bias.

AW correctly notes that no officer has yet been found guilty of a human rights offense. Enlisted men, contrary to AW's claims, have been convicted of abuses against Salvadorans. It is equally clear that there is now a more deliberate and systematic effort to catch and rectify human rights abuses. According to figures provided by the Vice Minister for Public Security, Colonel Reynaldo Lopez Nuila, only three members of the military were charged with human rights abuses in 1979; but the number grew to 271 in 1984.

Lack of Respect for Independence of the Courts, Press, Labor Unions, and Universities:

A. The Courts: After stating on p.5 that among the Salvadoran Government's abuses are "shortcomings in respect for the independence and proper functioning of such crucial institutions...as the courts...", Americas Watch fails to construct a case to support its assertion. Americas Watch does no in-depth study, or even a detailed description, of the very real problems of the judicial system. Rather, its treatment of the subject is anecdotal (pp. 134-139). The Salvadoran Government is conscious of the problems of intimidation, poor pay, corruption, lack of investigative capacity, training, and in some instances an outdated penal code--problems which, to be fair, exist in many other Latin American countries. It is attacking these problems through a U.S. AID-funded judicial reform project, which the AW report outlines but criticizes for moving too slowly.

B. The Press: Americas Watch claims restrictions on freedom of the press in El Salvador, while failing to note that the restrictions (which stem from "State-of-Siege" legislation) are not enforced. There is no censorship of the media. Americas Watch harks back to 1980 and 1981, when two opposition newspapers

were closed, to support its thesis of no press freedom in El Salvador in 1985 (p. 147). Though claiming "restrictions" on the media, AW notes that the two morning dailies now publishing in San Salvador have been "virulently critical of the Christian Democrats and their reform projects" (p. 148). AW furthermore makes no mention of the paid advertisements from the FMLN and guerrilla front organizations, which are published almost daily in the newspapers, nor of the information from the guerrillas' clandestine radio stations that the conventional radio stations relay faithfully and with total freedom.

C. Labor Unions: AW again reverts to past years for examples of lack of respect for labor unions, recalling the Las Hojas massacre of 1983 (which was not labor-related) and glossing over the fact that almost all the murders the unions complain about occurred before 1985. AW itself notes that following Duarte's inauguration in June 1984, "FENASTRAS (National Federation of Salvadoran Trade Unions), which had been functioning on a semi-clandestine basis since 1980, rented offices and began to function openly. Unions stepped up marches, demonstrations, and strikes. The unions' traditional May Day march drew around 30,000 (sic) in 1985, compared to only 5,000 the year before."

D. Universities: In its claim of non-respect for the independence of universities, AW refers only to the National University, among the half-dozen major universities operating freely in El Salvador. AW once again refers to the past, to the closure of the National University in 1980. To support its thesis of lack of respect for university independence, AW can muster only a few arrests of students in June of 1985 and a threat against eleven students, professors, and workers at the university ostensibly published by a right-wing group in July 1985. However we have credible information that the threat was planted by leftist rivals seeking to intimidate the eleven, rather than by the right.

Specific Points:

-- Forceful Relocation: Americas Watch (p. 7) alleges that the Government of El Salvador is determined to combat the FMLN by forceful relocation of the civilian population but presents no concrete data to support its allegation. The displacement of population from the conflictive areas is largely voluntary on the part of the inhabitants who are fleeing war, and it is certainly significant that by far the vast majority of these fled to government controlled areas rather than to those in guerrilla hands or across the frontier into Honduras. The relatively small number of civilians who were removed from northern Morazan and from Guazapa (San Salvador Department) in 1985 were relocated for

their own safety to prevent their being trapped in areas of intense combat. The ICRC has noted an increase in the number of persons applying for food aid in or near conflictive areas, to more than 80,000. If AW's thesis of "mass evacuation" (p. 50) were true, there would be fewer to feed.

-- Cabanas: Americas Watch (p. 9) brings up an incident from 1984 when it claims "The U.S. Department of State refuses to acknowledge that the Cabanas and Chalatenango massacres ever took place". In fact, the Embassy examined the charges and does not agree that massacres took place. In reference to the allegations, the Archbishop of San Salvador told Deputy Assistant Secretary for Humanitarian Affairs Laura Dietrich in February 1985 that, although he believed some civilians had been killed in these two incidents, the case was confusing because there were several versions of what had occurred in Cabanas. In the case of Chalatenango, he said, armed guerrillas had been accompanying the civilians. In its August 1984 monthly report, Tutela Legal published witnesses' testimony of the Chalatenango case, including statements that one or two of the accompanying guerrillas (depending on which witness was speaking) shot or threw hand grenades at the soldiers.

-- Aerial Attacks and Mortaring (p. 10): U.S. Embassy officers have repeatedly sought to verify allegations of indiscriminate bombing and mortaring made by guerrilla radio stations, but have found no evidence to support such assertions. During visits in July 1985 to the regional offices of the Governmental Human Rights Commission in San Vicente and San Miguel, Embassy officers queried the Commission's delegates regarding bombing or artillery attacks. Except for one injury, no cases have been reported to the Human Rights Commission since the opening of their offices in December 1984. Americas Watch relies on testimony from displaced persons from Northern Morazan (p. 13), an area with heavy guerrilla presence. In addition, the report alleges that many civilians are "killed and wounded as a result of these bombardments." AW quotes Tutela Legal as a source for these allegations, a source which has repeatedly proved unreliable in the past. Furthermore, the guerrillas themselves say that few civilians are killed by bombing, according to a Washington Post article by Robert McCartney (November 8, 1985, p. 1) and a New York Times article by James Lemoyne (December 20, 1985, p. 8). Both reporters had travelled extensively in guerrilla areas before writing their articles.

-- Testimony of Bombing (p. 13): This section contains five pages of testimony taken from refugees in the Colomoncagua Camp in Honduras. Bombing does occur in the guerrilla-infested region of El Salvador only a few kilometers from the camp. However, Embassy

interviews with the UNHCR camp director and camp physicians failed to uncover a single instance of civilians wounded in aerial attacks.

-- El Ocotal Bombing (p. 19): Americas Watch criticizes the Duarte Government for the accidental bombing which occurred in El Ocotal on August 6. The Salvadoran Air Force promptly admitted its responsibility and, in our view, deserves credit for its efforts to rectify the tragic error of this accidental bombing of the civilian population by apologizing for its mistake and paying indemnity to the victims' families--a "first" for the Air Force and an indication of a change in attitude which the AW report ignores.

-- Guazapa Bombing (p. 29): In "Testimony on Aerial Bombardment in Operations in Guazapa" (p. 29) while drawing heavily from statements by guerrilla supporters, Americas Watch representatives neglected to interview non-guerrilla farmers who live in the Guazapa area. These farmers have suffered harassment and destruction of their crops at the hands of the guerrillas. The Air Force has not knowingly bombed civilians in the area.

-- Las Animas: Civilian Casualties (p. 31): Americas Watch highlights the killing of four civilians, a mother and her three sons who were hiding in a granary during a battle. AW fails to note that the rocket which struck the granary was fired in support of a National Guard column which had been ambushed by the guerrillas at the edge of town. Even AW "do(es) not suggest that the civilian deaths that occurred in this episode were the result of deliberate attacks on civilians or that they were the consequence of indiscriminate attacks..."(p. 31).

-- Tutela Legal on Civilian Casualties (p. 37): AW cites Tutela Legal as its source for combat-related civilian casualties. On several occasions when the Embassy was able to investigate Tutela's claims, we found that Tutela reported civilian deaths which did not occur or which, in fact, were perpetrated by the guerrillas. Security considerations often make it impossible to travel to conflictive areas for on-site investigations, forcing Tutela to rely heavily on testimony of witnesses, who may themselves be guerrilla sympathizers who understand the value of supplying false information to Tutela Legal in order to further their propaganda campaign.

-- In "Forcible Relocations" (p. 38): Americas Watch criticizes the Salvadoran Government for providing safe conduct passes to guerrilla "masas". Safe conduct passes were designed to protect former guerrillas and "masas" from arrest. Though viewed by AW as a stigma, they serve, in fact, as protection for those who have

chosen to leave the guerrilla ranks and as temporary personal identity documents.

-- Children Detained With Parents (pp. 61-63): Americas Watch criticizes the detaining of children with their parents who are captured on a military operation. This is an example of the authors' lack of understanding of the Salvadoran culture. A child's security is with its mother. Salvadoran authorities recognize this and sometimes permit infants and toddlers to reside with their mothers who are in prison, upon the mother's request. It is customary that when the military is operating in a conflictive area and captures guerrilla "masas", it keeps the children together with the adult members of the family. The alternative would be to traumatize the children by separating them from their parents, leaving them in isolated areas where there are no child care facilities, forcing parents to abandon their offspring. In a conflictive zone, there would be a high risk that the families thus separated would never be reunited. The "masas" are held for two or three days in the courtyards of the headquarters, not in cells.

-- Americas Watch states (p. 65) that "in an interview with Ambassador Pickering he suggested that alternatives could be developed such as turning the children over to relatives or local church officials at the time of capture". An Embassy officer present recalls that Ambassador Pickering, in fact, did not agree with this approach nor urge that it become policy. The lack of facilities for child care in the rural areas would make this suggestion impracticable. Americas Watch notes that the imprisonment of the children with their parents is a violation of the normal operating procedures (the "PON") which guide arrest and capture by the Armed Forces. In fact, the PON prohibits incarceration of juvenile offenders with adults. It does not, however, forbid the holding of children with their families in an open compound while awaiting transfer to a displaced persons camp or other final destination. It would be tragic to see these children transferred to a center for protection of minors as suggested by Americas Watch.

-- Medical Neutrality: On page 70 Americas Watch comments on the arrest of two U.S. Mennonite missionaries and a Salvadoran co-worker in a conflictive area on May 9. The individuals, who teach health classes, were arrested in Cacaopera, Morazan, under suspicion of teaching Marxism. In an interview with an Embassy officer, one of the missionaries said that the Mennonites had resided for 2 years in Cacaopera without problems. The missionary noted that they had neglected to inform the new Departmental Commander of the nature of their work, which they believe led to

their arrest. The missionaries subsequently returned to their village and are now teaching again after having explained the non-political nature of their instruction to the Departmental Commander.

-- Access to Conflict Zones for Relief Agencies (p. 70): Americas Watch condemns Col. Sigifredo Ochoa who, according to the report, frequently bars access to the Department of Chalatenango to the ICRC, foreign press and, in one instance, Caritas. On that one occasion, Caritas had neglected to ask permission for the shipment to enter the Department. Col. Ochoa said he requires that all trucks carrying relief provisions be registered in advance. According to Col. Ochoa, several villages that are close to guerrilla strongholds have received double and sometimes triple shipments of relief supplies, encouraging the guerrillas to take the supplies from the recipients. The Caritas representative agreed to conform to regulations in the future with a proper request for admittance into the Department.

-- Government Distribution of Food: Americas Watch charges on p. 71 that the Army distributes food from U.S. AID and from PL 480. The Army's only role is to provide logistical and security support. On the occasions when the Army provides secure transport and assists in the distribution, a representative from the National Committee for the Displaced (CONADES), a civilian government agency, accompanies the Army to ensure that people in need are being served. Considering the numerous occasions on which the guerrillas have attacked land transport and have stolen or destroyed foodstuffs being trucked on the nation's roads, Army security is often a necessity.

-- Prisoners of War (p. 72): Americas Watch notes that AW has requested that the Armed Forces prepare a list of prisoners captured on the field of battle. The Armed Forces do not keep their records in this manner; they currently list all combat and urban guerrillas taken prisoner without differentiation.

-- Nidia Diaz: Americas Watch complains that guerrilla commander Nidia Diaz, who was captured in April of 1985, remained at National Police Headquarters rather than being sent to the Women's Prison at Ilopango, supposedly in violation of El Salvador's arrest procedures (the PON). Americas Watch has misinterpreted the PON, which requires that a prisoner arrested for crimes against the state be consigned to an "Instructional Judge" after a maximum interrogation period of 15 days. This procedure was followed in Nidia Diaz' case. The PON does not require that the prisoner be sent to a penitentiary. The National Police believed in this case that Ms. Diaz would be more secure in police headquarters than in the more lightly defended Women's facility at Ilopango.

-- Mining by the Army (pp. 79-80): The American Embassy and Governmental Human Rights Commission have received only isolated reports of government mines killing civilians. Mining, however, has become a standard, frequently employed guerrilla tactic in their war against the government and has caused at least 39 deaths and over 107 injuries among the civilian population from January to October 1985, according to press reports; the official Armed Forces count of civilian casualties of guerrilla mines is higher.

-- In "Death Squads" (p. 88): Americas Watch claims that death squad killings are condoned by the Salvadoran Government and quotes (incorrectly) Tutela Legal's tabulation of death squad killings for the first 6 months of 1985. U.S. Embassy representatives have questioned Tutela regarding the basis for these accusations. Tutela has not been able to present evidence to support its allegations of death squad activity or of government or Armed Forces involvement in or condoning of these murders. Tutela Legal, however, continues to arbitrarily assign the tag "death squad killing" to many victims killed by an unknown assailant. Contrary to AW's claim that Tutela "investigates each death squad case it reports," Tutela's director informed an Embassy officer that Tutela cannot investigate many cases because of lack of staff. AW concurs with Tutela's view that any victim killed in a traditional death squad style should be attributed to the right wing death squads, and by inference has the "blessing" of the Armed Forces. This modus operandi, according to the report, consists of:

- a. "Torture before killing".
- b. "Dumping unidentified bodies away from the scene of the crime".
- c. "Gunning down of victims on the street, or in their offices, in broad daylight".

Right wing death squads, however, do not have a monopoly on these styles of killing. The recent upsurge in guerrilla terror activities demonstrates guerrilla capabilities in these areas. The FMLN is well known for gunning down its victims on the street, a method attributed by Tutela Legal only to the right.

-- Abductions and Disappearances: Americas Watch bases this section (pp. 94-96) on newspaper accounts and on information in Tutela Legal's monthly reports. Surprisingly, AW refers to legal arrests by police officers as "abductions." AW is also mistaken in stating that regulations require that arrests be made only by uniformed personnel; regulations permit exceptions in cases where, for good reason, arresting officers' identities need to be

protected. These officers are always, however, identified in police records of the arrest, and we are unaware of any instance when it has not been possible to determine from proper records and logs who the arresting officers were.

AW mentions three cases of "abductions." In one case, AW claims that a group of heavily armed men "abducted" Francisco Javier Campos Sosa, and that "a few days later" Colonel Rinaldo Golcher, Commander of the Treasury Police, "admitted" that Campos was in Treasury Police custody. Actually, the Treasury police notified the family, the Red Cross, and the Governmental Human Rights Commission of Campos' detention within 24 hours of the time he was picked up, as required by Salvadoran arrest procedures. Campos was freed on June 19. In the other two cases of "abduction", AW does not identify the persons supposedly "abducted", nor the newspapers that reported the incidents, nor the unions that supposedly went on strike to protest the incidents, and does not give the date (s) when all this is supposed to have occurred. Without more information, the Embassy cannot comment on the cases. AW's report notes that one of these men was released, and one was charged and sent to Mariona Prison. From this information, both would appear to be routine arrests.

AW presents figures on disappearances which AW attributes to Tutela Legal (p. 96). However, for June, AW claims seven disappearances where Tutela Legal's report shows only two. In the separate section entitled "Disappearances Tabulated In This Month But Actually Occurring During A Prior Month," Embassy is at a loss to explain how AW came by its figures. The AW count is 40 such disappearances for the first half of 1985. Yet Tutela's monthly reports for the January-June 1985 period record only eight persons as having "disappeared" earlier in 1985; eight "arrested and disappeared" earlier in 1985; seven "disappeared in previous years"; and seven "kidnapped by the guerrillas". To reach the figure of 40, AW would have had to count as "disappeared" persons legally arrested and held by police. Embassy cannot concur that a person whose whereabouts is known has "disappeared."

-- Labor Issues (pp. 140-147): Americas Watch mixes human rights violations from past years, current events on the labor front, and information from an anonymous "university source" to give the impression that the government is savagely repressing union activity. In reality, the government has been extraordinarily patient with public and private sector unions engaging in illegal strikes, contrary to what the AW report alleges.

a. Police did not raid ANIS Headquarters, "confiscating documents and membership lists" (pp. 141-142). Adrian Esquino, President of ANIS, told Emboff that some workers from the American Institute for Free Labor Development (AIFLD, an AFL-CIO organization) came

and repossessed two cars and a radio telephone AIFLD had lent to ANIS. They took no files or documents of any kind.

b. There were not 1,110 workers fired from 16 state and private institutions for union activity in the first six months of 1985 (p. 143). The only large-scale firing for union activity -- refusing to obey a judicial order to return to work -- was the Water Company's firing of 237 (according to the Union President) workers in July whose strike had been declared by a Labor Judge to be illegal; 30 of these were later rehired. If the other 873 firings claimed by AW's "university source" had occurred in only 15 other companies, the firings could not have gone unnoticed.

c. There was no "wave of abductions of labor union leaders" in July and August of 1985 (p. 146). Americas Watch lists as kidnapped and disappeared Elsy Esperanza Martinez and her husband, Vilma Mendez, Natividad Vernal, Rufino Hernandez, and Ramos Marquez (real name Juan Ramon Marquez). Actually, all six were legally arrested. Elsy Martinez, Natividad Vernal, and Rufino Hernandez were released. The others are in prison charged with membership in subversive (guerrilla) organizations.

d. According to Americas Watch, Miguel Lopez of the Asociacion Nacional De Campesinos (ANC) was abducted on August 9. Emboff contacted ANC offices and was told that ANC knew of no one by that name, and that none of their members had been arrested or was missing.

-- Torture (pp. 97-107): The Americas Watch report states in this section that torture is a persisting matter of major concern. It is, in fact, extremely difficult to verify the use of torture. The American Embassy, through its interviews with prisoners and human rights organizations, has established that some mistreatment of prisoners does take place. However, these cases are isolated incidents and are not condoned by the Salvadoran authorities. No mention is made here of the stricter controls placed upon the arresting officers and police interrogators by the security forces. No notice is taken of the increased number of arrests made by the security forces of its own members for abuse of the civilian population, something we believe worthy of mention.

Violations by Guerrillas

A. Santa Cruz Loma

In "Violations by Guerrillas" (pp. 108-124), Americas Watch recounts the guerrilla attack on the village of Santa Cruz Loma, La Paz, on April 8, 1985. In this attack, the guerrillas killed

21 persons. Americas Watch mentions only thirteen in the text (six others are relegated to a footnote). Six of these were Civil Defense members whom the guerrillas took to the outskirts of the village and executed. Of the others noted by Americas Watch, six, including women and children, burned to death in a house when the guerrillas set it afire, and a child was shot running from that house. An Embassy officer conducted on-site interviews with witnesses. No witness mentioned hostile fire from the house directed toward the guerrillas, and all categorically denied that the guerrillas gave the occupants an opportunity to surrender, as FDR-FMLN representatives in New York told Americas Watch. AW would have done better to believe the witnesses, whom we understand its representative in El Salvador interviewed, rather than FMLN spokespersons in New York City. The guerrillas left on the cadavers leaflets proclaiming the virtues of the FMLN and stating that Santa Cruz Loma was targetted because of its Civil Defense force.

B. The Zona Rosa

Americas Watch condemns the guerrillas' June 19, 1985 attack in the Zona Rosa Restaurant section of San Salvador which killed four U.S. Marine security guards, two U.S. businessmen, and seven other civilians (p. 112). Unfortunately, AW repeats rumors that some of the victims were killed or wounded in crossfire. Exhaustive investigation and extensive interviewing of witnesses by the National Police, the military, and Embassy personnel found no evidence of any return fire whatsoever. Ballistics tests proved that the bullets that killed the Marines and the bullets that killed the other victims were fired from the same guns.

C. Other Guerrilla Offenses

Americas Watch comments on the guerrilla kidnapping of mayors, condemns killing at roadblocks, and devotes two pages to guerrilla mining. The report, however, questions the reliability of reports of civilian casualties from mining. The elaborate and graphic testimony found in the sections of the report dedicated to government abuses is noticeably absent from the section devoted to FMLN abuses, even though the maimed victims are readily available for interview in virtually every hospital or medical facility in the country. AW fails to list any of the numerous urban assassinations claimed by the guerrillas. Guerrilla radio broadcasts are entirely overlooked as a source of information regarding guerrilla intentions in meting out "popular justice."

Embassy's Methodology

AW's criticism of the Embassy's reporting on human rights (pp. 125-132) focuses on the "bi-weekly violence report," complaining that the bi-weekly is based only on local newspaper accounts and

implying that the bi-weekly plus a few minor backup cables are the Embassy's entire effort in human rights reporting. The bi-weekly is indeed based primarily on local newspaper accounts, and says so; its purpose is to report what appears in the press and thus to follow the trend of political killings over a long period of time. Every issue of the bi-weekly carries a caveat that the Embassy does not endorse these figures as reflecting the precise numerical level of violence. AW claims that the Embassy makes a "conspicuous omission" by failing to report the human rights information included in the weekly homily at the National Cathedral. In fact, the Embassy translates and cables in unclassified form the homilies, including the human rights sections, to numerous posts worldwide and to the White House through the Department of State. Indeed, the homily reports arrive in Washington more promptly than the bi-weeklies. The Embassy also sends to the Department the violence statistics reported by Tutela Legal, by the Non-governmental Human Rights Commission of El Salvador (CDHES), and by Socoro Juridico Cristiano, none of which are friendly to the Salvadoran Government. In addition, the Embassy sends numerous reports on individual cases, including the comprehensive annual human rights report, which covers subjects ranging from political killings to land reform and literacy rates. The authors of the AW report had free access to Embassy officers and could easily have obtained the above information.

Comment

With its September 1985 report, Americas Watch demonstrates once again that it has no claim to status as an objective reporter of the situation in El Salvador. Its bias is obviously against the government. Although the report admits "significant reductions in some forms of abuse" attributed to the government, including political killings, disappearances, and torture, Americas Watch cannot bring itself to approve; instead it asserts that "at no time has it been possible for us to assert that there was a general improvement in human rights" (p. 2). Americas Watch's standard for a "general improvement" is unclear. AW criticizes "aerial bombardment, strafing, mortaring and army ground operations that include destruction of houses and crops (and) continue to generate fear and displace the civilian population from their homes" (pp. 8-9). The Embassy is not surprised that war activities generate fear in the civilian population, nor that damage to civilian property occurs in the course of conflict. We are surprised that AW seems to feel that any injury to civilians or their property that occurs is the result of a deliberate military attack on the civilian population. The Embassy cannot concur in such an assumption. El Salvador is a third-world country, with a depressed economy, whose fragile

democratically-elected government is fighting for its life against a self-proclaimed Marxist-Leninist insurgency. To expect the government to prosecute a war without causing any incidental injury to civilians or civilian property, is to expect the impossible, and then criticize the country for not reaching it. Americas Watch fails to note many improvements in the human rights situation in El Salvador, and belittles others. It unquestionably accepts "testimony" from guerrilla families and sympathizers which it should approach with healthy skepticism as coming from interested parties. Unable to make its case against the government with the material available in the first six months of 1985 (the period supposedly covered by the report), Americas Watch has included incidents all the way back to 1980.

The Embassy is concerned about the Americas Watch report on a number of grounds:

-- That more rigorous investigations of the facts were not carried out. Example: A few telephone calls could have located the labor union members reported as "disappeared" on p. 146.

-- That fuzzy definitions are used. Example: Americas Watch criticizes the lack of freedom of the press, without defining press freedom. AW then notes that the morning newspapers are virulently critical of the government from a rightist viewpoint. Apparently there must be leftist criticism before Americas Watch considers the press free. But AW also omits noting the regular publication and the airing over Salvadoran radio and television of FMLN and FDR and associated organizations' manifestos, declarations and commentaries -- all highly critical of the government.

-- That the background of persons giving "testimony" was not weighed before attaching credence to their tales, and that no corroborating evidence was sought. For example, the Americas Watch's representative accepted the accounts of terrible bombings told by residents of the guerrilla-dominated Colomoncagua refugee camp, but apparently did not ask camp physicians or officials whether they had seen any injuries from bombs. Embassy officers who visited Colomoncagua and who asked camp physicians and officials this question were told that they had not.

-- That Americas Watch failed to avail itself of readily-available information about guerrilla abuses of human rights, broadcast on the insurgents' clandestine radio stations.

-- That Americas Watch accepts completely the reports, testimonies, and figures of Tutela Legal, without analyzing Tutela Legal's methodology in collecting these testimonies and compiling

these figures. In fact, serious problems exist in Tutela's methodology. For example, Tutela's murky standards for death squad killings were noted above. In addition, it is often unclear where Tutela Legal obtains its information, as is the case with its monthly figures on battlefield deaths of (possibly) civilians and (possibly) guerrillas. Also, Tutela's method of deciding which of these purported casualties are civilians, and which are combatants, is not explained. Tutela's failure to attribute to the guerrillas violent acts for which the guerrillas have publicly claimed responsibility is another glaring weakness in its methodology.

-- That Americas Watch cites events from previous years and previous administrations in a report supposedly devoted to human rights in the first six months of 1985. AW refers to El Gramal, destroyed in 1981 (p. 28); to bombing which allegedly occurred in October 1984 (pp. 14-17); to the bombing of Tenancingo in 1983 (p. 36); the closure of the National University in 1980 (p. 150); the closure of two opposition newspapers in 1980 and 1981 (p. 147); the Las Hojas massacre in 1983 (p. 140); and other instances.

Post can only conclude that Americas Watch's political agenda has hindered its objectivity. We recommend that readers approach the Americas Watch report with appropriate skepticism and caution.